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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,764	10/15/2003	Jeffrey C. Schlimmer	MS1-1657US	6319
22801	7590	11/02/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BOTTS, MICHAEL K	
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,764

Applicant(s)

SCHLIMMER ET AL.

Examiner

Michael K. Botts

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This document is a Final Office Action on the merits. This action is responsive to the following communications: Response to May 6, 2006 Office Action, which was filed on August 8, 2006.
2. Claims 1-39 are currently pending in the case, with claims 1, 15, 21, and 26 being the independent claims.
3. Claims 1-39 are rejected.

Claims Rejections – 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-39 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Altova Inc. & Altova GmbH, “XML Spy Suite 4.4, User and Reference Manual Version 4.1, copyright 1998-2001, dated May 24, 2002, cover, copyright page, and pages I-XVI, and 1-586, [hereinafter “XML Spy”].**

Regarding **independent claim 1**, XML Spy teaches:

A method of combining formats for an electronic file, comprising:

*combining data having at least two different encodings; and
presenting the combined data as homogenized data according to a
reference encoding.*

(See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching combining data with different encodings and changing the encodings to a single encoding.

Specifically, see, XML Spy, pages 117-131, teaching “encoding,” page 123, “save” and “save as,” page 124, as methods for changing the format of an electronic file to a reference encoding.

See also, XML Spy, pages 208-209, teaching “import text file,” “which lets you import any structured text file into XML Spy and convert it to XML format immediately. This is useful when you want to import legacy data from older systems, as most software products support a text export interface of some kind.” It is inherent that since XML Spy will import any structured text file and convert it to XML format immediately, and since there are more than one form of structured text file, and since files may be combined in XML, that at least two different encodings can be combined as homogenized data in according to the reference encoding – XML.)

See also, XML Spy, pages 303-304, teaching “encoding” where a “default encoding for new files can be pre-determined in the settings dialog box so that each new document is automatically created with a proper XML-declaration” thereby teaching that a plurality of files may be encoded to the same homogenized data according to a default reference encoding.

See also, XML Spy, pages 551-553, teaching that all XML files from formats on a variety of machines and languages, will be homogenized to the reference encoding of Unicode.)

Regarding **dependent claim 2**, XML Spy teaches:

A method according to claim 1, wherein the reference encoding includes at least one of the at least two different encodings.

(See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching encoding in Unicode (for XML) and other encodings being all translated to Unicode (XML).)

Regarding **dependent claim 3**, XML Spy teaches:

A method according to claim 2, wherein the reference encoding is XML.

(See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching encoding in Unicode (for XML) and other encodings being all translated to Unicode (XML).)

Regarding **dependent claim 4**, XML Spy teaches:

A method according to claim 3, wherein the combined data is encoded into a single XML information set.

(See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching encoding in Unicode (for XML) and other encodings being all translated to Unicode (XML).)

Regarding **dependent claim 5**, XML Spy teaches:

A method according to claim 1, wherein the combining comprises referring to data.

(See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching encoding in Unicode (for XML) and other encodings being all translated to Unicode (XML).)

Regarding **dependent claim 6**, XML Spy teaches:

A method according to claim 1, wherein the combining comprises interleaving data.

(It is noted that the phrase "interleaving data" is not found to be expressly defined in the specification, except from what appears to be a contextual definition of the phrase "interleaved data" as follows: "*FIG. 3 refers to the mixed content encoding combination technique, by which data having at least two different encodings is interleaved, i.e., combined, in accordance with a reference encoding.*" See, figure 3, and disclosure, paragraph [0046]. Based on the specification and the context of the claims, the Examiner reads the limitation of combining comprising "interleaving data" to mean data which is a block containing more than one encoding, which is then read by the program and combined into one encoding such as Unicode. Such interpretation will be used for the remainder of this Office Action.

See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching many different encodings singularly or in combination being all translated to Unicode (XML) or other designated encoding. It is noted that XML Spy will translate most encodings into

Art Unit: 2176

a variety of second encodings, including into Unicode for XML. The character of the original encodings and whether the block of data contains one or more than one encoding does not affect the translation.)

Regarding **dependent claim 7**, XML Spy teaches:

A method according to claim 5, wherein the combining comprises referring to data using an include element to reference binary data.

(See, XML Spy, pages 6, 123, and 374, teaching the use of ASCII as an accommodated binary code within the invention and within the include codes in the header of the program.)

Regarding **dependent claim 8**, XML Spy teaches:

A method according to claim 7, wherein a href (Hypertext REference) attribute of the include element provides a universal resource identifier of the binary data to be referenced.

(See, XML Spy, page 204, teaching an href to a universal resource identifier (URL).)

Regarding **dependent claim 9**, XML Spy teaches:

A method according to claim 5, wherein the combined data is presented as a MIME serialization.

(See, XML Spy, page 296, teaching translation of MIME serialization data to XML.)

Regarding **dependent claim 10**, XML Spy teaches:

A method according to claim 7, wherein the include element comprises a simple object access protocol (SOAP) header block.

(See, XML Spy, pages 257-273, teaching use of the SOAP protocol in a header block.)

Regarding **dependent claim 11**, XML Spy teaches:

A method according to claim 10, wherein the SOAP header block indicates that the combined data includes the XML include element, and points to cached representations of media resources.

(See, XML Spy, pages 115, 188, 295, 379-380, 414, and 436, teaching use of a cache for reloading files with URLs. And see, XML Spy, page 8, teaching that XML Spy will handle graphics as representations of media resources.)

Regarding **dependent claim 12**, XML Spy teaches:

A method according to claim 11, wherein the SOAP header block points to any one of a web resource, an audio resource, and an image resource.

(See, XML Spy, pages 115, 188, 295, 379-380, 414, and 436, teaching use of a cache for reloading files with URLs. And see, XML Spy, page 8, teaching that XML Spy will handle graphics as representations of media resources.)

Regarding **dependent claim 13**, XML Spy teaches:

A method according to claim 6, wherein the combining comprises combining data fragments, each data fragment being defined by values corresponding to a respective encoding, length, and content.

(It is noted that the phrase "interleaving data" is not found to be expressly defined in the specification, except from what appears to be a contextual definition of the phrase "interleaved data" as follows: "*FIG. 3 refers to the mixed content encoding combination technique, by which data having at least two different encodings is interleaved, i.e., combined, in accordance with a reference encoding.*" See, figure 3, and disclosure, paragraph [0046]. Based on the specification and the context of the claims, the Examiner reads the limitation of combining comprising "interleaving data" to mean data which is a block containing more than one encoding, which is then read by the program and combined into one encoding such as Unicode. Such interpretation will be used for the remainder of this Office Action.

See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching many different encodings singularly or in combination being all translated to Unicode (XML) or other designated encoding. It is noted that XML Spy will translate most encodings into a variety of second encodings, including into Unicode for XML. The character of the original encodings and whether the block of data contains one or more than one encoding does not affect the translation. Additionally, the manner of notation of the data in the first encoding (i.e., "encoding, length, and content") does not affect the translation

and is read as non-functional descriptive language such that it is not limiting on the claimed invention.)

Regarding **dependent claim 14**, XML Spy teaches:

*A method according to claim 13, wherein a data fragment is notated as
<encoding><length><content>.*

(It is noted that the phrase "interleaving data" is not found to be expressly defined in the specification, except from what appears to be a contextual definition of the phrase "interleaved data" as follows: "*FIG. 3 refers to the mixed content encoding combination technique, by which data having at least two different encodings is interleaved, i.e., combined, in accordance with a reference encoding.*" See, figure 3, and disclosure, paragraph [0046]. Based on the specification and the context of the claims, the Examiner reads the limitation of combining comprising "interleaving data" to mean data which is a block containing more than one encoding, which is then read by the program and combined into one encoding such as Unicode. Such interpretation will be used for the remainder of this Office Action.

See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching many different encodings singularly or in combination being all translated to Unicode (XML) or other designated encoding. It is noted that XML Spy will translate most encodings into a variety of second encodings, including into Unicode for XML. The character of the original encodings and whether the block of data contains one or more than one encoding does not affect the translation. Additionally, the manner of notation of the data

Art Unit: 2176

in the first encoding (i.e., "encoding, length, and content") does not affect the translation and is read as non-functional descriptive language such that it is not limiting on the claimed invention.)

Regarding **claims 15-20** :

Claims 15-20 incorporate substantially similar subject matter as claimed in claims 1, 3, 4, 7, 8, and 12, respectively and are rejected along the same rationale.

Regarding **claims 21-25**:

Claims 21-25 incorporate substantially similar subject matter as claimed in claims 1, 3, 4, 24, and 25, respectively, and are rejected along the same rationale.

Regarding **independent claim 26**:

Claim 26 incorporates substantially similar subject matter as claimed in claim 1 and, in further view of the following is rejected along the same rationale. Claim 1 does not specify transmitting data to a receiving node, however, transmission of data to a node is inherent in the translation of data to a XML format which is taught in XML Spy, and which is based on hierarchical organization including nodes. All data within XML Spy is within nodes.)

Regarding **dependent claims 27-29**:

Claims 27-29 incorporate substantially similar subject matter as claimed in claims 2-4, respectively, and are rejected along the same rationale.

Regarding **dependent claim 30**, XML Spy teaches:

A method according to claim 26, wherein the combining includes resolving to data.

(It is noted that the specification expressly defines the term "resolve" as follows: "*It should be noted that, as utilized within this description, the term "resolve" refers to linking or pointing to referenced data.*" See, disclosure, paragraph [0016]. It is believed by the Examiner based on the context of the definition in the disclosure that the Applicants intended the stated definition of "resolve" to apply to the term "resolving," as used in claim 30, and, accordingly, the term will be so read for the remainder of this Office Action.

It is further noted that the function of "linking or pointing to referenced data" is consistent with the function of "referencing," which was known to one of ordinary skill in the art at the time of the invention to refer to a reference data type, and was defined as follows: "A data type that is represented by a reference (similar to a pointer) to the type's actual value. If a reference type is assigned to a variable, that variable references (or 'points to') the original value." See, "Microsoft Computer Dictionary, Fifth Edition," Microsoft Press, 2002, definition of "reference type."

Based on the definitions and the use of the terms in context of the claims, the terms "reference" as used in claim 5, is read as having the same function as the term "resolving" as used in claim 30.

Therefore, based on the stated interpretations of the claim language, claim 30 incorporates substantially similar subject matter as claimed in claim 5 and is rejected along the same rationale.)

Regarding **dependent claim 31**:

Claim 31 incorporates substantially similar subject matter as claimed in claim 6 and is rejected along the same rationale.

Regarding **dependent claim 32**, XML Spy teaches:

A method according to claim 30, wherein the combining includes resolving to data using an include element to reference binary data.

(It is noted that the specification expressly defines the term "resolve" as follows: "*It should be noted that, as utilized within this description, the term "resolve" refers to linking or pointing to referenced data.*" See, disclosure, paragraph [0016]. It is believed by the Examiner based on the context of the definition in the disclosure that the Applicants intended the stated definition of "resolve" to apply to the term "resolving," as used in claim 30, and, accordingly, the term will be so read for the remainder of this Office Action.

It is further noted that the function of "linking or pointing to referenced data" is consistent with the function of "referencing," which was known to one of ordinary skill in the art at the time of the invention to refer to a reference data type, and was defined as follows: "A data type that is represented by a reference (similar to a pointer) to the type's actual value. If a reference type is assigned to a variable, that variable references (or 'points to') the original value." See, "Microsoft Computer Dictionary, Fifth Edition," Microsoft Press, 2002, definition of "reference type."

Based on the definitions and the use of the terms in context of the claims, the terms "reference" as used in claim 7, is read as having the same function as the term "resolving" as used in claim 32.

Therefore, based on the stated interpretations of the claim language, claim 32 incorporates substantially similar subject matter as claimed in claim 7 and is rejected along the same rationale.)

Regarding dependent claims 33-39 :

Claims 33-39 incorporate substantially similar subject matter as claimed in claims 8-10 and 12-14, respectively, and are rejected along the same rationale.

5. It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon

Art Unit: 2176

for all that it would have reasonably suggested to one having ordinary skill in the art.

See, MPEP 2123.

Response to Arguments

Applicants' arguments filed August 8, 2006 have been fully considered, but they are not persuasive.

Regarding rejections of independent claims 1, 15, 21, and 26:

Applicants argue that the reference fails to teach or suggest "combining data having at least two different encodings; and presenting the combining data as homogenized data according to a reference encoding." See, Remarks. page 10.

The Examiner disagrees.

See, XML Spy, pages 117-131, 208-209, 303-304, and 551-553, teaching combining data with different encodings and changing the encodings to a single encoding.

Specifically, see, XML Spy, pages 117-131, teaching "encoding," page 123, "save" and "save as," page 124, as methods for changing the format of an electronic file to a reference encoding.

See also, XML Spy, pages 208-209, teaching "import text file," "which lets you import any structured text file into XML Spy and convert it to XML format immediately. This is useful when you want to import legacy data from older systems, as most software products support a text export interface of some kind." It is inherent that since

XML Spy will import any structured text file and convert it to XML format immediately, and since there are more than one form of structured text file, and since files may be combined in XML, that at least two different encodings can be combined as homogenized data in according to the reference encoding – XML.)

See also, XML Spy, pages 303-304, teaching “encoding” where a “default encoding for new files can be pre-determined in the settings dialog box so that each new document is automatically created with a proper XML-declaration” thereby teaching that a plurality of files may be encoded to the same homogenized data according to a default reference encoding.

See also, XML Spy, pages 551-553, teaching that all XML files from formats on a variety of machines and languages, will be homogenized to the reference encoding of Unicode.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS for the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2176

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Botts whose telephone number is 571-272-5533. The examiner can normally be reached on Monday through Friday 8:00-4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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